



STATE OF ARKANSAS
ATTORNEY GENERAL
LESLIE RUTLEDGE

Opinion No. 2016-048

August 3, 2016

The Honorable Tom Tatum II
Prosecuting Attorney
Fifteenth Judicial District
P.O. Box 1599
Danville, AR 72833

Dear Mr. Tatum:

You have requested my opinion on several questions concerning the “district court automation fund” established under Ark. Code Ann. § 16-13-704(b)(3) (Supp. 2015). As background for your questions, you state:

Yell County operates two district courts—one in the north half of the county and one in the south. Yell County shares the cost of operation of the courts with the cities that lie within the jurisdictional boundaries of each court. Each city as well as the county collects the fines and costs associated with their individual cases. Therefore, Yell County has an automation fund as well as each city.

With this background in mind, you ask:

1. Is it permissible for [the] county and cities to maintain District Court Automation Funds?
2. Who determines how these funds are used?
3. Does their spending require approval of the Quorum Court or City Council?

RESPONSE

It is my opinion in response to your first question that the fund entitled “the district court automation fund” under Ark. Code Ann. § 16-13-704(b)(3) cannot be maintained by both the county and the cities. Rather, because the district courts in Yell County are reportedly funded by both Yell County and the cities, these automation funds must be maintained by the cities in which the courts are located. It is my opinion in response to your second question that the district court judges determine how the automation funds collected under this statute are used. In response to your third question, city council “approval” is required in the sense that expenditures from a district court automation fund must be preceded by an appropriation adopted by the city council.

DISCUSSION

Question 1: Is it permissible for counties and cities to maintain district court automation funds?

The “automation funds” at issue contains moneys collected pursuant to Ark. Code Ann. § 16-13-704, which requires the assessment and collection of a monthly “installment fee” of \$5.00 on persons paying fines in circuit and district court on an installment basis.¹ One-half of this fee is remitted monthly to the Department of Finance and Administration for deposit in a State Treasury fund.² With regard to the fee collected in district court, the other half goes to the city treasurer of the city in which the court is located—or to the county treasurer if the court is funded solely by the county:

(B) The other half of the installment fee collected in district court shall be remitted by the tenth day of each month to the city treasurer of the city in which the district court is located to be deposited in a fund entitled the district court automation fund to be used solely for district court-related technology.

¹ See Ark. Code Ann. § 16-13-704(a)(1) (authorizing the court to approve payment of fines in installments) and § 16-13-704(b)(1) (imposing “an installment fee of five dollars (\$5.00) per month” on “each person who is authorized to pay a fine on an installment basis,” and requiring that the fee be collected each month or accrue each month a defendant does not make an installment payment of the fine).

² *Id.* at § 16-13-704(b)(2)(A) and (3)(A).

(C) In any district court which is funded solely by the county, the other half of this fee shall be remitted by the tenth day of each month to the county treasurer of the county in which the district court is located to be deposited in the district court automation fund to be used solely for district court-related technology.³

You have stated that the district courts in Yell County are funded by both the county and the cities in which the courts are located. Consequently, because the courts are not “funded solely by the county,” the above subsection 16-13-704(b)(3)(C) does not apply. Subsection 16-13-704(b)(3)(B) applies instead, and requires that one-half of the \$5.00 installment fee “be remitted ... to the city treasurer of the city in which the district court is located to be deposited in ... the district court automation fund.”

It is therefore my opinion in response to your specific question that Yell County is not authorized to maintain the fund under Ark. Code Ann. § 16-13-704(b)(3)(B) entitled “the district court automation fund.”

Question 2: Who determines how these funds are used?

The judges of the district courts determine how these automation funds are used. This follows, in my opinion, from the requirement that expenditures from the automation fund be approved by the district judge:

*(i) Expenditures from the district court automation fund shall be approved by a district judge and shall be authorized and paid, under state laws governing the appropriation and payment of county or municipal expenditures, by the governing body or, if applicable, governing bodies that contribute to the expenses of a district court.*⁴

Ordinarily, the mayor possesses authority to spend appropriated city treasury funds, or approve claims for payment out of such funds.⁵ But the mayor’s general

³ *Id.* at § 16-13-704(b)(3).

⁴ *Id.* at § 16-13-704(b)(3)(D) (emphasis added).

⁵ *See* Ark. Code Ann. § 14-58-303 (Supp. 2015) (vesting the mayor with “exclusive power and responsibility to make purchases ... and necessary contracts” for the city) and § 14-14-305 (Repl.

authority in this respect cannot be squared with the above specific requirement regarding expenditures from the district court automation fund. The district judge must approve such expenditures; and I believe it necessarily follows that the district judge is substituted for the mayor in connection with expenditures from this particular fund.

Question 3: Does their spending require approval of the quorum court or city council?

The expenditure of automation funds collected in a Yell County district court must be preceded by an appropriation of the city council of the city in which the court is located. This is clear under subsection 16-13-704(b)(3)(D)(i), *supra*, wherein it states: "Expenditures ... shall be authorized and paid, under state laws governing the appropriation and payment of ... municipal expenditures, by the governing body or, if applicable, governing bodies that contribute to the expenses of a district court."⁶ City council "approval" is therefore required, in the sense that there must be an appropriation before the funds can be spent; and appropriations require the approval of the city council.⁷

Sincerely,



LESLIE RUTLEDGE
Attorney General

1998) (authorizing the mayor to "approve for payment out of funds previously appropriated for that purpose ... any bills, debts, or liabilities asserted as claims against the city.").

⁶ Because the automation funds are not maintained by Yell County (see response to Question 1 above), they are not appropriated by the Yell County Quorum Court.

⁷ Appropriations require a majority of the city council for passage. Ark. Code Ann. § 14-55-204 (Repl. 1998).